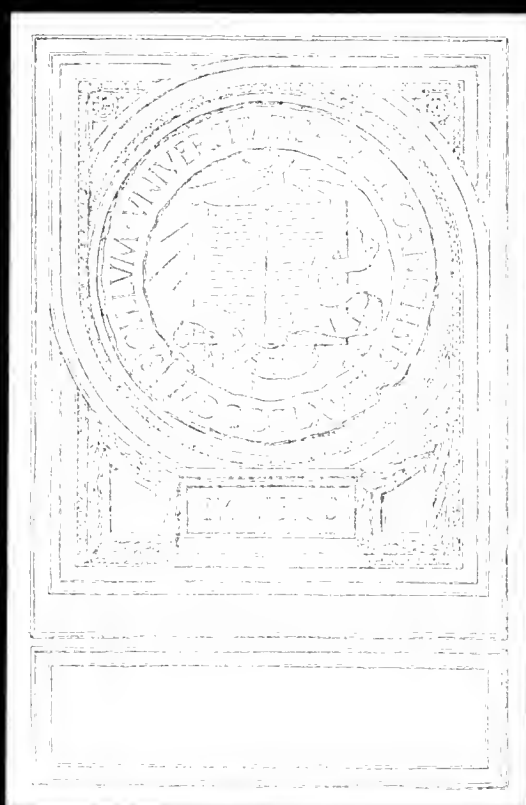


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CORRESPONDENCE

BETWEEN

HIS MAJESTY'S GOVERNMENT AND THE
UNITED STATES AMBASSADOR

RESPECTING

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Correspondence between His Majesty's Government and the
United States Ambassador respecting Economic Rights in
Mandated Territories.

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No. 1.

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Mr. Davis to Earl Curzon.—(Received May 13.)

My Lord,

*Embassy of the United States of America,
London, May 12, 1920.*

PURSUANT to the instructions of my Government, I have the honour to inform your Lordship that the Government of the United States has been unofficially informed that the mandates for Mesopotamia and Palestine have been assigned to Great Britain; the mandate for Mesopotamia being given subject to friendly arrangement with the Italian Government regarding economic rights.

2. The Government of the United States desires to point out that during the peace negotiations at Paris leading up to the Treaty of Versailles, it consistently took the position that the future peace of the world required that, as a general principle, any alien territory which should be acquired pursuant to the Treaties of Peace with the Central Powers, must be held and governed in such a way as to assure equal treatment in law, and in fact to the commerce of all nations. It was on account of, and subject to this understanding that the United States felt itself able and willing to agree that the acquisition of certain enemy territory by the victorious Powers would be consistent with the best interests of the world. The representatives of the principal Allied Powers, in the discussion of the mandate principles, expressed in no indefinite manner their recognition of the justice and far-sightedness of such a principle, and agreed to its application to the mandates over Turkish territory.

3. The administration of Palestine and Mesopotamia during the interim period of military occupation has given rise to several communications between the United States Government and that of Great Britain relative to matters that had created the unfortunate impression in the minds of the American public, that the authorities of His Majesty's Government in the occupied region had given advantage to British oil interests which were not accorded to American companies, and further that Great Britain had been preparing quietly for exclusive control of the oil resources in this region. The impression referred to has, it is believed, been due in large part to reports of authoritative statements regarding the general oil policy of Great Britain, and of actual work such as the construction of pipe lines, railways and refineries, the operations of certain oil wells, the acquisitions of dockyards, cotton investigations, and permitted researches by certain individuals whose activities, though stated to be solely in behalf of the civil administration, were attended by circumstances which created the impression that some benefit at least would accrue to British oil interests.

4. Certain of the occurrences above referred to have been explained by His Majesty's Government as due to military necessity, and certain others as due to laxity on the part of local authorities. It must be realised, however, that it has been difficult for the American people to reconcile all of these reports with the assurance of His Majesty's Government that "the provisional character of the military occupation does not warrant the taking of decisions by the occupying Power in matters concerning the future economic development of the country," and that the invitation of new undertakings and the exercise of rights under concessions would be prohibited. The United States Government has confidence in the good faith of His Majesty's Government in attempting to carry out the assurances given by His Majesty's Foreign Office, but desires to point out that the considerations above referred to indicate the difficulty in ensuring the local execution of such undertakings, and the necessity for careful measures to guarantee the practical fulfilment of the principles expressed and agreed to during the peace negotiations at Paris.

5. With this thought in mind the Government of the United States ventures to suggest the following propositions, which embody or illustrate the principles which the United States Government would be pleased to see applied in the occupied or mandated regions; and which are submitted as furnishing a reasonable basis for discussions. In the event of such discussions, it would be assumed that the legal situation as regards

economic resources in the occupied or mandated regions would remain *in statu quo* pending an agreement—

(1.) That the Mandatory Power strictly adhere and conform to the principles expressed and agreed to during the peace negotiations at Paris, and to the principles embodied in mandate "A" prepared in London for adoption by the League of Nations by the Commission on Mandatories.

(2.) That there be guaranteed to the nationals or subjects of all nations treatment equal in law and in fact, to that accorded nationals or subjects of the Mandatory Power with respect to taxation or other matters affecting residence, business profession, concessions, freedom of transit for persons and goods, freedom of communication, trade, navigation, commerce, industrial property, and other economic rights or commercial activities.

(3.) That no exclusive economic concessions covering the whole of any mandated region or sufficiently large to be virtually exclusive shall be granted, and that no monopolistic concessions relating to any commodity or to any economic privilege subsidiary and essential to the production, development, or exploitation of such commodity shall be granted.

(4.) That reasonable provision shall be made for publicity of applications for concessions and of governmental acts or regulations relating to the economic resources of the mandated territories; and that in general regulations or legislation regarding the granting of concessions relating to, exploring, or exploiting economic resources, or regarding other privileges in connection with these, shall not have the effect of placing American citizens or companies, or those of other nations or companies controlled by American citizens or nationals of other countries, at a disadvantage compared with the nationals or companies of the mandate nation, or companies controlled by nationals of the mandate nation or others.

6. The fact that certain concessions were granted in the mandated regions by the Turkish Government is, of course, an important factor which must be given practical consideration. The United States Government believes that it is entitled to participate in any discussions relating to the status of such concessions, not only because of existing vested rights of American citizens, but also because the equitable treatment of such concessions is essential to the initiation and application of the general principles in which the United States Government is interested.

7. No direct mention has been made herein of the question of establishment of monopolies directly or indirectly by or in behalf of the Mandatory Government. It is believed, however, that the establishment of monopolies by or in behalf of the Mandatory Government would not be consistent with the principles of trusteeship inherent in the mandatory idea. His Majesty's Government has stated its conception of the necessity for the control of oil production in these territories in time of national emergency. The Government of the United States does not intend at present to suggest arrangements that shall extend to any consideration not included in an enlightened interpretation of what constitutes its legitimate commercial interests. The question of control in times of national emergencies of supplies which may be deemed essential by Great Britain is a subject which the United States Government deems a matter for separate discussion.

8. The Government of the United States realises the heavy financial obligations which will arise in connection with the administration of the mandatory. It believes, however, that any attempt toward reimbursement by the adoption of a policy of monopolisation or of exclusive concessions and special favours to its own nationals, besides being a repudiation of the principles already agreed to, would prove to be unwise even from the point of view of expediency both on economic and political grounds. It also believes that the interests of the world, as well as that of the two respective countries, can best be served by a friendly co-operation or a friendly and equal competition between the citizens of the two countries and citizens of other nationalities.

9. The Government of the United States would be glad to receive an early expression of the views of His Majesty's Government, especially in order to reassure public opinion in the United States.

10. I have the honour, further, to acquaint your Lordship that this note is not designed by way of reply to the Allied note from San Remo, which will be answered separately.

I have, &c.

JOHN W. DAVIS.

No. 2.

Mr. Davis to Earl Curzon.—(Received July 29.)

*Embassy of the United States of America,
London, July 28, 1920.*

My Lord,

PURSUANT to the instructions of my Government, I have the honour to recall to your Lordship the statement in my note of the 12th May, 1920, that the Government of the United States would be glad to receive an early expression of the views of His Majesty's Government with respect to its economic policy in the mandate regions of the Near East.

2. The Government of the United States appreciates that, with respect to the inauguration of the administration of the mandate territories, His Majesty's Government will consider it necessary to proceed with due deliberation. His Majesty's Government will recall, however, that the Government of the United States is primarily interested in the effective application to these territories of general principles, already clearly recognised and adhered to during the peace negotiations at Paris, that such territories should be held and governed in such a way as to assure equal treatment in law and in fact to the commerce of all nations.

3. It is the opinion of the Government of the United States that the treatment of the economic resources of the regions which will be held under mandate by Great Britain or other nations involves a question of principle transcending in importance questions relating merely to the commercial competition of private interests or to control for strategic purposes of any particular raw material. The Government of the United States in its note of the 12th May, 1920, suggested certain considerations that indicate the necessity for careful measures to guarantee the practical application of the principles expressed and agreed to during the peace negotiations at Paris. Unfortunately, occurrences subsequent to the submission of this note have not served to clarify the situation or to diminish the concern felt by the Government and people of the United States.

4. The Government of the United States has noted the publication of an agreement between His Majesty's Government and the French Government making certain provisions for the disposition of petroleum produced in Mesopotamia, and giving to France preferential treatment in regard thereto. It is not clear to the Government of the United States how such an agreement can be consistent with the principles of equality of treatment understood and accepted during the peace negotiations at Paris.

5. The Government of the United States desires to record its views that such an agreement, in light of the position the British Government appears to have assumed toward Mesopotamia and its economic resources, will, as a practical matter, result in a grave infringement of the mandate principle which was formulated for the purpose of removing in the future some of the principal causes of international differences.

6. In the interests of a frank discussion of the whole subject the Government of the United States desires further to call the attention of His Majesty's Government to the existence of reports to the effect that the officials charged with the administration of Tanganyika territory have accorded privileges to British nationals that have not been accorded to the nationals of other countries.

7. The Government of the United States desires to express anew the hope that in an early reply to the note of the 12th May, 1920, His Majesty's Government will find it possible to elucidate fully its policy regarding the mandated territory of the Near East and other regions.

I have, &c.

JOHN W. DAVIS.

No. 3.

Earl Curzon to Mr. Davis.

Your Excellency,

Foreign Office, August 9, 1920.

I HAVE the honour to refer to the notes dated the 12th May and 28th ultimo which you were good enough to address to me, and in which your Excellency, referring to the mandates assigned to Great Britain, had occasion to point out the general principles stated to be advocated by the United States Government and agreed to by the Allied Powers which should be adopted and applied to the mandates over former Turkish territory.

2. You at the same time drew my attention to the existing vested rights of United States citizens in this territory and to the impression which had arisen in the minds of the American people that the authorities of His Majesty's Government in the occupied territory of Mesopotamia had given advantages to British oil interests which were not granted to American companies, and that His Majesty's Government were taking steps calculated eventually to bring the oil resources of Mesopotamia under their exclusive control. Instances of activities in various directions were quoted which had led to such conclusions. In view of this impression and of the necessity for the adoption of careful measures which would ensure the practical fulfilment of the principles enunciated, you put forward certain proposals which the United States Government would be glad to see applied in the mandated territories, and explained the necessity for giving practical consideration to certain concessions in those regions granted by the Turkish Government, in some of which United States citizens claimed vested rights.

3. The various points and suggestions which have formed the subject of your note have had the careful consideration of His Majesty's Government, and I desire to furnish you in regard to them with the following observations :—

4. I would wish, at the outset, to refer to the last sentence of the first paragraph of your note of the 12th May, to the effect that the assignment to Great Britain of the mandate for Mesopotamia was made subject to a friendly arrangement with the Italian Government regarding economic rights, and to state categorically that the assignment of the mandate has been made and accepted subject to no friendly arrangement whatever with any Government regarding economic rights.

5. I will next deal with the alleged action of the authorities of His Majesty's Government in the occupied territories in giving facilities to British oil interests which, it is contended, were denied to United States companies. The matter, as you will recollect, has formed the subject of previous communications between us, and the hope was entertained that whatever doubts had existed in regard to the attitude of His Majesty's Government in the matter had been satisfactorily dispelled. The authoritative statements to which you have alluded in the third paragraph of your note of the 12th May, and which would appear to be the basis for the reports that actual work has been undertaken in Mesopotamia, are not founded on fact. Such reports would lead to the assumption that the development of the oilfields has already been taken in hand, which is not the case. No pipe-lines or refineries for dealing with Mesopotamian oil have been constructed. In fact, the only existing work of this nature is a small refinery now in course of erection at Bagdad which was started for purely military requirements and is intended to deal with oil obtained from the Persian oilfields.

6. The difficulty and cost of conveying supplies of oil by river from the base at Basra to military stations situated north of Bagdad and in the Mosul region have compelled the military authorities in that region to consider the problem of securing sufficient supplies locally, and have led to the working of an oil-well which had been partially developed by the Turkish authorities previous to and during the war. The operations at this well have been conducted for purely military purposes under the immediate supervision of the army authorities and at army expense, and no private interests whatever are in any way involved.

7. In regard to the building of railways and dockyards, I need hardly dwell upon the imperative necessity for providing every possible means of transport during the period of military operations and facilities of every kind at the ports for the landing of troops and stores. The construction of railways in a country utterly destitute of any properly organised means of communication has throughout the period of the war and since the cessation of hostilities been of paramount importance from the military as well as from the administrative point of view.

8. The suggestion that Great Britain during the period of military occupation of the mandatory territories has been preparing for exclusive control of their oil resources is equally devoid of foundation, and the claims of British commercial interests in those regions, whatever they may be, are to-day no stronger, as they are no weaker, than they were at the outbreak of war.

9. I would like here to make a passing reference to the very mistaken impressions which appear to be current in the United States in regard to the oil policy of His Majesty's Government. The output of oil within the British Empire is only about $2\frac{1}{2}$ per cent. of the world's production, and if the production of Persia be included, in virtue of certain oilfields in that country being owned by a British company, the total amounts to about $4\frac{1}{2}$ per cent. Against this small percentage, the United States

produces some 70 per cent. of the world's output, besides which United States companies, who own at least three-fourths of the Mexican output, are estimated to produce a further 12 per cent. of the world's output. This overwhelming proportion, over 80 per cent., of the petroleum production of the world is under American control, and the predominance of the United States in regard to oil production is assured for many years to come. There is, in any case, no justification for supposing that Great Britain, whose present oil resources are altogether insignificant in comparison, can seriously threaten American supremacy, and any prophecies as to the oil-bearing resources of countries at present unexplored and quite undeveloped must be accepted with reserve.

10. The nervousness of American opinion concerning the alleged grasping activities of British oil interests appears singularly unintelligible in view of these facts, and yet it is notable that the United States, notwithstanding their assured supremacy, have taken powers to reserve for American interests the right to drill for oil on United States domain lands and have on various occasions used their influence in territories amenable to their control with a view to secure the cancellation of oil concessions previously and legitimately obtained by British persons or companies. Thus, on the occupation of Hayti by United States forces in 1913, the United States Administration refused to confirm an oil concession which had been approved by the Haytian Government and Legislature and for which the caution money had been deposited in the republic; and more recently the United States representatives at San José urged the present Costa Rican Government to cancel all concessions granted by the previous Government, the only concession in question being an oil concession granted to a British subject.

11. Very different has been the attitude of the British Government. In assuming the administration of the occupied Turkish territories they have remained fully alive to their obligation, as a temporary occupant, to protect not only the natural resources of the country against indiscriminate exploitation, but also the absolute freedom of action which the authority to be created eventually for administering those regions would have rightly expected to enjoy.

12. Mindful of this obligation, His Majesty's Government have found it necessary to suspend during the period of occupation the grant of facilities and opportunities to British as well as to other private interests to investigate the natural resources of the country with the view of acquiring new claims or strengthening old ones, and there is no reason for assuming that the Administration either of Mesopotamia or of Palestine has at any time failed to carry out the policy which has been laid down by His Majesty's Government.

13. I will now refer to the propositions enumerated by you on which discussion is invited and which have been put forward with the object of guaranteeing to the commerce of all nations the practical fulfilment in the mandated regions of the principles of equal treatment in law and in fact. Reference is made in this connection to the desirability of the adherence of the mandatory Power to the principles expressed and agreed to during the peace negotiations at Paris, as well as to the principles embodied in mandate (A) prepared in London by the Commission on Mandates, for adoption by the League of Nations.

14. I would first point out that, in consequence of a divergence of views, the Commission on Mandates proceeded no further with the draft of the mandate form (A), which was consequently abandoned.

15. The draft mandates for Mesopotamia and for Palestine, which have been prepared with a view to secure equality of treatment and opportunity for the commerce, citizens and subjects of all States who are members of the League of Nations, will, when approved by the Allied Powers interested, be communicated to the Council of the League of Nations. In these circumstances, His Majesty's Government, while fully appreciating the suggestion for discussing with the United States Government the various propositions mentioned by you, with which they are in full sympathy, are none the less of the opinion that the terms of the mandates can only properly be discussed at the Council of the League of Nations by the signatories of the Covenant.

16. In the matter of concessions granted in the mandated territories by the Turkish Government, His Majesty's Government fully agree with the views of the United States Government that due consideration must be given to all rights legally acquired before the outbreak of hostilities. Provision for the consideration and recognition under certain conditions of concessions situated in territories detached from the Turkish Empire has, moreover, as you no doubt know, been made in the treaty of peace with Turkey. His Majesty's Government are aware that certain rights were acquired in Palestine before the war by American citizens, while British interests, such

as the Turkish Petroleum Company and other groups, claim similar rights either in Mesopotamia or in Palestine. These claims will naturally have to be given practical consideration and receive equitable treatment consistent with the interests of the mandated territories.

17. As part of the administrative arrangements under the treaty of peace with Turkey and the mandate, the oil deposits in Mesopotamia will be secured to the future Arab State, but it is far from the intention of the mandatory Power to establish on its own behalf any kind of monopoly.

18. In view of long-standing interests which the French Government possessed in the Mosul district, arrangements were made whereby the French Government should, on renouncing those interests, be assured of a certain participation in the Mesopotamian oil production. It was accordingly decided that, in the event of the Mesopotamian oilfields being developed by the State, France should be entitled to purchase 25 per cent. of the oil production at ordinary market rates, or, in the alternative of the oilfields being developed by private enterprise, that French participation should not be less than 25 per cent. in the share-holdings, while provision was made that the Mesopotamian Administration should likewise have a certain share.

19. In consideration for such participation, the French Government agreed to permit the laying of a pipe-line from the Mesopotamian oilfields through Syria, besides providing for other facilities. These arrangements, including others for mutual co-operation in other countries, were embodied in an agreement which has been published. The practical outcome of the arrangement, so far as Mesopotamia is concerned, is that, while France secures a share in the output of oil at ordinary market rates, the Mesopotamian State is afforded, in return, facilities for placing the production of the oilfields within easy reach of the world's markets. The agreement aims at no monopoly, it does not exclude other interests, and gives no exclusive right to the mandatory Power, while the Mesopotamian State is free to develop the oilfields in any way it may judge advisable, consistent with the interests of the country.

20. I feel bound to observe that, even if any special privileges were assigned to France under this agreement, such a proceeding would be consistent with the interpretation consistently placed by the United States Government on most-favoured-nation clauses in treaties, namely, that special privileges conceded to particular countries in return for specific concessions cannot, in virtue of such a clause, be claimed by other countries not offering such concessions. The United States Government have indeed recently taken a further step in the case of the "Jones" Act, and have taken powers actually to withdraw treatment secured by treaties which in some cases contain no provision for denunciation.

21. As regards the alleged action of the Administration of Tanganyika territory referred to in the penultimate paragraph of your note of the 28th ultimo, I should be obliged if you would furnish me with the names of any persons who have been refused privileges granted to British subjects and the dates of their applications.

I have, &c.

CURZON OF KEDLESTON.

No. 4.

Mr. Davis to Earl Curzon.—(Received December 7.)

*Embassy of the United States of America,
London, December 6, 1920.*

My Lord,

WITH reference to my note of the 22nd November last, in which I communicated to you a note from the Secretary of State of the United States concerning the mandate and Mesopotamian oil situation, I have now the honour to transmit, herewith enclosed, the communication addressed to your Lordship upon this subject, dated the 20th November, 1920, and signed by the Honourable Bainbridge Colby, Secretary of State of the United States of America, a comparison of the text of which with that as transmitted in my afore-mentioned note will disclose certain relatively unimportant changes in the verbiage.

I have, &c.

JOHN W. DAVIS.

Enclosure in No. 4.

Mr Bainbridge Colby to Earl Curzon.

*Department of State, Washington,
November 20, 1920.*

My Lord,

I HAVE the honour to refer to your note of the 9th August regarding the application of the principle of equality of treatment to the territories of the Near East to be placed under mandates and specifically to the petroleum resources of those territories as affected by that principle.

Before considering the observations of His Majesty's Government on the general principles advocated by the United States and agreed to by the Allied Powers for application to the mandates over former Turkish territory as outlined in the notes of the 12th May and of the 28th July addressed to you on behalf of this Government, I think it will clarify the discussion to indicate certain of your statements and assurances which this Government has been pleased to receive. Thus I note that the assignment to Great Britain of the mandate for Mesopotamia was made and accepted subject to no friendly arrangement whatever with any third Government regarding economic rights, which of course would have been wholly at variance with the purpose and contemplation of any mandate.

It is also gratifying to learn that His Majesty's Government is in full sympathy with the several propositions formulated in the note of the 12th May above referred to, which embody or illustrate the principles which this Government believes should be applied in the mandated regions and which are essential to the practical realisation of equality of treatment.

The statements of your note, to the effect that the British Government has refrained from exploiting the petroleum resources of the mandated territories in question; that the operations referred to have been conducted for purely military purposes under the immediate supervision of the army authorities and at army expense; and that no private interests whatever are in any way involved, are accepted with a full sense of the good faith of the British Government.

The Government of the United States notes that His Majesty's Government has found it necessary to suspend, during the period of occupation, the grant of facilities and opportunities to British as well as to other private interests to investigate the natural resources of the country, either for the purpose of acquiring new claims or strengthening old ones, and that there is no reason for assuming that the Administration, either of Mesopotamia or of Palestine, has at any time failed to carry out the assurances of His Majesty's Government.

This Government welcomes your pledges to the effect that the natural resources of Mesopotamia are to be secured to the people of Mesopotamia and to the future Arab State to be established in that region and that it is the purpose of the British Government, fully alive to its obligation as a temporary occupant, not only to secure those resources to the Mesopotamian State, but also its absolute freedom of action in the control thereof, and in particular that it is far from the intention of the Mandatory Power to establish any kind of monopoly or preferred position in its own interest.

The Government of the United States appreciates likewise the concurrence with its view that the merits of all claims to rights alleged to have been acquired in the mandated territories before the outbreak of hostilities must be duly established before recognition of such claims will be accorded.

Adverting, at this point, to the views of His Majesty's Government regarding the nature of the responsibilities of Mandatory Powers under the League of Nations, I desire to call to the attention of His Majesty's Government the fact that, while the draft mandate, form "A," was not adopted at Paris, it was the understanding of the American representatives there present, that the British Government entertained and had expressed convictions favourable to said form, and that, presumably, its representatives would exercise their influence in conformity with those convictions.

I need hardly refer again to the fact that the Government of the United States has consistently urged that it is of the utmost importance to the future peace of the world that alien territory, transferred as a result of the war with the Central Powers, should be held and administered in such a way as to assure equal treatment to the commerce and to the citizens of all nations. Indeed, it was in reliance upon an understanding to this effect, and expressly in contemplation thereof, that the United States was persuaded that the acquisition under mandate of certain enemy territory by the victorious Powers would be consistent with the best interests of the world.

It is assumed accordingly that your statements with reference to mandate "A," together with the statement that the draft mandates for Mesopotamia and Palestine have been prepared with a view to secure equality of treatment for the commerce and citizens of all States which are members of the League of Nations, do not indicate a supposition on your part that the United States can be excluded from the benefits of the principle of equality of treatment.

This Government is pleased to find that His Majesty's Government is in full sympathy with the principles formulated in its communications of the 12th May and of the 28th July. But it is unable to concur in the view, contained in paragraph 15 of your note, that the terms of the mandates can properly be discussed only in the Council of the League of Nations and by the signatories of the Covenant. Such powers as the Allied and Associated nations may enjoy or wield in the determination of the governmental status of the mandated areas accrued to them as a direct result of the war against the Central Powers. The United States as a participant in that conflict and as a contributor to its successful issue cannot consider any of the Associated Powers, the smallest not less than itself, debarred from the discussion of any of its consequences, or from participation in the rights and privileges secured under the mandates provided for in the Treaties of Peace.

This Government notes with interest your statement that the draft mandates for Mesopotamia and for Palestine, which have been prepared, with a view to secure equality of treatment and opportunity for the commerce, citizens and subjects of all States which are members of the League of Nations, will, when approved by the interested Allied Powers, be communicated to the Council of the League of Nations. The United States is undoubtedly one of the Powers directly interested in the terms of the mandates, and I therefore request that the draft mandate forms be communicated to this Government for its consideration before their submission to the Council of the League. It is believed that His Majesty's Government will be the more ready to acquiesce in this request, in view of your assurance that His Majesty's Government is in full sympathy with the various principles contained in the two previous notes of this Government upon this subject.

The establishment of the mandate principle, a new principle in international relations, and one in which the public opinion of the world is taking a special interest, would seem to require the frankest discussion from all pertinent points of view. It would seem essential that suitable publicity should be given to the drafts of mandates which it is the intention to submit to the Council, in order that the fullest opportunity may be afforded to consider their terms in relation to the obligations assumed by the Mandatory Power and the respective interests of all Governments which are or deem themselves concerned or affected.

The fact cannot be ignored that the reported resources of Mesopotamia have interested public opinion of the United States, Great Britain and other countries as a potential subject of economic strife. Because of that fact they become an outstanding illustration of the kind of economic question with reference to which, the mandate principle was especially designed, and, indeed, a peculiarly critical test of the good faith of the nations which have given their adherence to the principle. This principle was accepted in the hope of obviating in the future those international differences that grow out of a desire for the exclusive control of the resources and markets of annexed territories. To cite a single example: because of the shortage of petroleum, its constantly increasing commercial importance, and the continuing necessity of replenishing the world's supply by drawing upon the latent resources of undeveloped regions, it is of the highest importance to apply to the petroleum industry the most enlightened principles recognised by nations as appropriate for the peaceful ordering of their economic relations.

This Government finds difficulty in reconciling the special arrangement referred to in paragraphs 18 and 19 of your note, and set forth in the so-called San Remo Petroleum Agreement, with your statement that the petroleum resources of Mesopotamia, and freedom of action in regard thereto, will be secured to the future Arab State, as yet unorganised. Furthermore, it is difficult to harmonise that special arrangement with your statement that concessionary claims relating to those resources still remain in their pre-war position, and have yet to receive, with the establishment of the Arab State, the equitable consideration promised by His Majesty's Government.

This Government has noted in this connection a public statement of His Majesty's Minister in charge of petroleum affairs to the effect that the San Remo Agreement was based on the principle that the concessions granted by the former Turkish Government must be honoured. It would be reluctant to assume that His Majesty's Government has

already undertaken to pass judgment upon the validity of concessionary claims in the regions concerned, and to concede validity to certain of those claims which cover apparently the entire Mesopotamian area. Indeed, this Government understands your note to deny having taken, and to deny the intention to take, any such *ex parte* and premature action. In this connection, I might observe that such information as this Government has received indicates that prior to the war, the Turkish Petroleum Company, to make specific reference, possessed in Mesopotamia no rights to petroleum concessions or to the exploitation of oil; and, in view of your assurance that it is not the intention of the Mandatory Power to establish on its own behalf any kind of monopoly, I am at some loss to understand how to construe the provision of the San Remo Agreement that any private petroleum company which may develop the Mesopotamian oil-fields "shall be under permanent British control."

Your Lordship contrasts the present production of petroleum in the United States with that of Great Britain, and some allusion is made to American supremacy in the petroleum industry. I should regret any assumption by His Majesty's Government or any other friendly Power that the views of this Government as to the true character of a mandate are dictated in any degree by considerations of the domestic need or production of petroleum, or any other commodity.

I may be permitted to say, however, for the purpose of correcting a misapprehension which your note reflects, that the United States possesses only one-twelfth approximately of the petroleum resources of the world. The oil resources of no other nation have been so largely drawn upon for foreign needs, and your Lordship's statement, that any prophecies as to the oil-bearing resources of unexplored and undeveloped countries must be accepted with reserve, hardly disposes of the scientific calculation upon which, despite their problematical elements, the policies of States and the anticipations of world production are apparently proceeding. The Government of the United States assumes that there is a general recognition of the fact that the requirements for petroleum are in excess of production, and it believes that opportunity to explore and develop the petroleum resources of the world, wherever found, should, without discrimination, be freely extended, as only by the unhampered development of such resources can the needs of the world be met.

But it is not these aspects of oil production and supply, in so far as they are of domestic interest to the United States, with which I am concerned in this discussion. I have alluded to them in order to correct confusing inferences liable to arise from certain departures, which I believe I discern in your Lordship's communication, from the underlying principles of a mandate, as evolved and sought to be applied by the Allied and Associated Powers to the territories brought under their temporary dominion by their joint struggle and common victory. This dominion will be wholly misconceived, not to say abused, if there is even the slightest deviation from the spirit and the exclusive purpose of a trusteeship as strict as it is comprehensive.

Accept, my Lord, the assurances of my most distinguished consideration.

BAINBRIDGE COLBY,
*Secretary of State of the United
 States of America.*

No. 5.

Earl Curzon to Mr. Davis.

Your Excellency,

Foreign Office, February 28, 1921.

I HAVE the honour to acknowledge the receipt of your Excellency's note of the 6th December, enclosing a communication dated the 20th November from the Secretary of State of the United States, relative to the application, in territories placed under mandate, of the principles of equality of treatment and opportunity, and referring more especially to the petroleum resources found in the Near East. His Majesty's Government are pleased to observe that the United States Government appreciates the general policy adopted by His Majesty's Government in territories under military occupation. I notice, however, that Mr. Colby makes certain observations with regard to the San Remo Petroleum Agreement which appear to indicate that the scope of that agreement is not fully understood.

2. The co-operation of British and French interests in regard to oil production in various countries was first suggested in the early part of the year 1919 by the French Government, when it was proposed that some arrangement should be arrived at whereby French interests might be given some participation in the production of petroleum in various regions. The proposal put forward by the French Government was carefully considered, and it was found possible to come to an agreement based on the principles of mutual co-operation and reciprocity in various countries, especially where British and French interests were already considerable, and on the whole greater than those of other Allied countries. The agreement aimed at no monopoly or exclusive rights, and could only become effective if its application conformed to the desires and laws of the countries concerned.

3. As regards the provisions in the agreement relating to Mesopotamia, I desire to make it plain that the whole of the oilfields to which those provisions refer are the subject of a concession granted before the war by the Turkish Government to the Turkish Petroleum Company. The position of such concessions in territory detached from Turkey is expressly safeguarded by articles 311 and 312 of the Treaty of Sèvres. The history of this concession is as follows :—

Prior to the war the position in regard to the Mesopotamian oilfields was as follows :—

The concessions for all the oilfields of the two vilayets (provinces) of Mosul and Bagdad were bestowed by the ex-Sultan Abdul Hamid on his Civil List in 1888 and 1898 respectively, and private enterprise had long been debarred thereby from acquiring any oil rights in those particular districts. This situation was so far admitted and recognised that in 1904 the Anatolian Railway Company, nominally a Turkish company, but in reality a German concern, obtained a contract from the Civil List by which the company undertook to carry out preliminary surveys of the oilfields and secured the option for their development on joint account.

4. The Civil List in 1906, considering the agreement with the Anatolian Company at an end, entered into negotiations with a British group with a view to the development of the oilfields. These negotiations, which had the full support of His Majesty's Ambassador at Constantinople, continued during the year 1907; they were suspended during the political crisis which broke out in 1908, but were resumed in 1909 with the Turkish Ministry of Finance, to which Department the Mesopotamian oil concession had been transferred from the Civil List, by firmans issued in 1908 and 1909. The general upheaval caused by the events in those years impeded the progress of the negotiations during the years 1910 and 1911.

5. In 1912 endeavours were made by German interests to obtain the confirmation by the Turkish Government of the arrangements concluded in 1904 between the Anatolian Railway Company and the Sultan's Civil List, and, with the apparent object of pursuing the matter and of widening the scope of their activity in oil operations in other parts of the Turkish Empire, they formed a British limited liability company called the Turkish Petroleum Company (Limited), the capital of which was partly British and partly German.

6. This development was succeeded by a series of negotiations entered into between the British group and members of the Turkish Petroleum Company for the amalgamation of the rival interests and for pursuing jointly the application before the Turkish Government for the grant of a concession for the Mesopotamian oilfields. These negotiations, in which the British and German Governments took an active interest, terminated in the early part of 1914, when an agreement was reached for the fusion of the interests of the original Turkish Petroleum Company and of the original British group in the new Turkish Petroleum Company. This agreement was signed not only by the parties immediately interested, but also on behalf of the British and German Governments respectively. The German share in this new company was fixed at 25 per cent.

7. In consequence of this arrangement, His Majesty's Ambassador at Constantinople was able to make the necessary representations to the Turkish Government for the grant to the Turkish Petroleum Company of the oil concessions in the vilayets of Mosul and Bagdad, while representations of the same nature were made simultaneously to the Porte by the German Ambassador. The negotiation between His Majesty's Government and the Turkish Government was not confined to the question of the Turkish Petroleum Company, but covered a wide field and involved mutual conces-

sions of very material importance. As a result the Turkish Government, on the 28th June, 1914, through the Grand Vizier, informed His Majesty's Ambassador, in an official communication, that the Turkish Ministry of Finance having been substituted for the Civil List in the matter of the petroleum deposits known or to be discovered in the vilayets of Mosul and Bagdad, had consented to lease the said deposits to the Turkish Petroleum Company, the Ministry reserving the right to fix later on its share in the enterprise as well as the terms of the contract. I should add that during the war the German interests in the company were liquidated, and thus came into the hands of His Majesty's Government.

8. From the facts as narrated, it will be seen that the Turkish Petroleum Company's right to the lease of the oilfields in the two vilayets rests on an official undertaking given by the Turkish Government to the two Governments concerned after prolonged diplomatic negotiations. In the circumstances the oil rights in the vilayets of Bagdad and Mosul cannot be treated merely as a matter of abstract principle or without reference to the special character of the negotiations which preceded the war. Had no war supervened, and had Mesopotamia remained till now under Turkish rule, the exploitation of these oil deposits would long since have begun. It can hardly be contended that His Majesty's Government should now question the validity of an undertaking granted by the Turkish Government in return for consideration received. And I may add, since the United States Government will presumably expect His Majesty's Government to recognise the rights acquired by the Standard Oil Company in Palestine from the Turkish Government, that these rights, which are based entirely on the grant of a prospecting licence, are no stronger than those of the Turkish Petroleum Company, to whom the Turkish Government had definitely undertaken to transfer a valid and already existing concession.

9. In this connection I feel bound to remind you that the attitude of the United States Government in suggesting that His Majesty's Government should disregard the rights acquired by the Turkish Petroleum Company is scarcely consistent with that adopted by the United States Government in regard to similar United States interests in oil properties in Mexico. For instance, in his letter of the 25th November, 1920, to M. Pesqueira, the Mexican representative in Washington, Mr. Colby expressed particular satisfaction at the statements made in M. Pesqueira's letter, then under reply, to the effect that President de la Huerta and President-elect Obregon had declared that article 27 of the new Mexican Constitution "is not, and must not be, interpreted as retroactive or violative of valid property rights."

10. It will be seen from the above facts that the acquisition by the French Government under the San Remo Agreement of an interest in the Mesopotamian oilfields represents the allotment to the French Government of the former German interests in the Turkish Petroleum Company in return for facilities by which Mesopotamian oil will be able to reach the Mediterranean. The agreement, so far as it relates to Mesopotamia, may therefore be said to be the adaptation of pre-war arrangements to existing conditions, and in this respect His Majesty's Government, far from acting in any selfish or monopolistic spirit, may reasonably claim to have consulted the best interests of the future Arab State. Neither the rights of the Turkish Petroleum Company nor the provisions of the San Remo Oil Agreement will preclude the Arab State from enjoying the full benefit of ownership or from prescribing the conditions on which the oilfields shall be developed.

11. I have not failed to observe the large amount of public attention directed to the reported resources of Mesopotamia, which, Mr. Colby states, furnish a peculiarly critical test of the good faith of the nations which have given their adherence to the mandate principle. Apart from the fact that these resources are as yet entirely unproved, I can discern nothing in this principle which compels the mandatory Power to discriminate against its own nationals, who, after years of arduous negotiation, secured certain rights, and would, but for the war, have long since been actively at work, in order to afford an equal opportunity to other groups which before the war were not actively concerned in the petroleum resources of Mesopotamia.

12. I have noted with interest the allusions which Mr. Colby makes to the estimates which have been framed of the distribution of the petroleum resources of the world. While I agree that such calculations are of subsidiary importance in this discussion, I think it desirable that they should be placed in the proper perspective. It is stated in Mr. Colby's note that the United States possesses only one-twelfth approximately of the world's petroleum resources, but I may be permitted to point out that in 1919 the chief geologist of the United States Geological Survey stated that "the criteria on which such estimates can be based vary in every degree of inadequacy in the different

regions," and he was then referring to estimates dealing with the United States only, and was not taking into account the infinitely more problematical resources of countries still partially or wholly unexplored, from a geological standpoint.

13. My object in referring to this aspect of the question in a previous note was to show that the United States controls a home production of petroleum which, whether it is about to reach its maximum point or not, is actually and potentially vast, while in neighbouring countries it possesses a predominant interest in oil-bearing regions of exceptional promise. The United States Government will doubtless agree that this statement of the existing situation admits of no dispute.

14. While the potentialities of the future are necessarily problematical, the undisputed fact remains that at present United States soil produces 70 per cent., and American interests in adjoining territory control a further 12 per cent. of the oil production of the world. It is not easy, therefore, to justify the United States Government's insistence that American control should now be extended to resources which may be developed in mandated territories, and that too at the expense of the subjects of another State who have obtained a valid concession from the former Government of those territories.

15. His Majesty's Government are, nevertheless, glad to find themselves in general agreement with the contention of the United States Government, that the world's oil resources should be thrown open for development without reference to nationality. I observe, however, that by article 1 of the Act of the Philippine Legislature of the 31st August, 1920, participation in the working of all "public lands containing petroleum and other mineral oils and gas" is confined to citizens or corporations of the United States or of the Philippines, and I cannot but regard this enactment as in contradiction with the general principle enunciated by the United States Government. In this connection I observe that Mr. Colby does not attempt to refute the statements contained in my note of the 9th August last concerning the action taken by the United States Government to prevent the exploitation by British interests of such resources in Hayti and Costa Rica.

16. In your note of the 28th July the attention of His Majesty's Government was called to the existence of reports to the effect that the officials charged with the administration of Tanganyika territory have accorded privileges to British nationals that have been denied to the nationals of other countries. It is from no mere love of controversy that I recall this matter to your attention, but rather from the conviction that misunderstandings between our two countries over oil questions, and indeed our present correspondence, are largely due to the spirit engendered by reports of precisely this nature, which, on dispassionate examination, can frequently be found to lack any basis of truth. In the absence of particulars, which the United States Government were requested to furnish, I can only express my regret at being unable to prove positively that the reports quoted by you are based on misapprehension.

I have, &c.

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